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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,331	04/16/2004	Cynthia Dumas	22406.01	7878

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EXAMINER

PHAM, HUONG Q

ART UNIT PAPER NUMBER

3772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/825,331	DUMAS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Huong Q. Pham	3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1- 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                  |                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                      | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                             | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/16/04</u> . | 6) <input type="checkbox"/> Other: ____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 10, 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Fragomeli ( 5,924,130).

As for claims 1, 12, 13, Fragomeli teaches a cover comprising a plastic film 1 having a predefined form, said film formed of a flexible, liquid impervious material, said form defining at least one substantially circular opening ( figures 3, 4); a first resilient band 6 attached to said film and disposed so as to encircle each of said at least one circular opening; a second resilient band 5 attached to said film and disposed at a predetermined distance from said first resilient band, so as to also encircle each of said at least one circular opening; and an absorbent medium 2 attached to said film, and disposed between said first and said second resilient bands, so as to also encircle each of said at least one circular opening; wherein upon placing said film over a medical application, each said first and second resilient bands are capable of forming a substantially watertight seal against a skin surface, and said absorbent medium 2 is capable of absorbing the moisture that invades said film by passing said first band 6,

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and therefore preventing the moisture from passing said second band. As for claim 2, note that the film 1 is plastic. As for claim 3, note that film is capable of protecting a bandage. As for claim 4, note that said film is capable of protecting a cast. As for claim 5, note that said film is capable of protecting a body portion. As for claim 7, note that said film is capable of being used for an arm. As for claim 10, note that said film is capable of being used for a leg.

Claims 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Baxter (4,178,924).

Baxter teaches a waterproof cover for medical applications comprising a film 20 having a predefined form, said film formed of a flexible, liquid impervious material, said form defining at least one substantially circular opening; a resilient band 40 attached to said film and disposed so as to encircle each of said at least one circular opening; and an absorbent medium 34 attached to said film, and disposed adjacent to said resilient band, so as to also encircle each of said at least one circular opening; wherein upon placing said film over a medical application, each said resilient band 40 forming a substantially watertight seal against a skin surface, and said absorbent medium absorbs any moisture that invades said film by passing said band, and prevents the moisture from entering said film. As for claim 13, note figure 5. As for claim 14, note layer 18. As for claim 15-17, note layer 34.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 8 - 11 are rejected under 35 U.S.C. 103(a) as being unpatentable  
Fragomeli ( 5,924,130) in view of South et al ( US 2001/0041853).

Fragomeli teaches a protective cover with plural resilient bands and an absorbent medium.

South et al teaches different protective cast covers for a head, chest or waist, foot, arm, leg. In view of the teaching South et al, it would have been obvious to one ordinary skill in the art at the time the invention was made to make protective cover of Fragomeli as recited to accommodate the head, or chest, or waist, or leg, or arm , or foot of a wearer.

Claims 12- 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over  
Agati et al ( Des.406,897) in view of Aceves ( 6,126,621) and Baychar ( 6,981,341).

As for claims 12-15, Agati et al teaches a waterproof cast cover comprising a waterproof film with multiple elastic bands at an opening; wherein upon placing said film over a medical application, said resilient bands are capable of forming a substantially watertight seal against a skin surface. Aceves teaches a cast cover comprising a film 21

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( figure 3) having a predefined form, said form defining at least one substantially circular opening; a resilient band 31 ( figure 2) attached to said film 21 and disposed so as to encircle said at least one circular opening, an absorbent medium 40 attached to said film 21 ( figure 3), and disposed adjacent to said resilient band 31, so as to also encircle said at least one circular opening. Baychar teaches a waterproof moisture transfer composite with absorbent material comprising waterproof outer layer 70 ( figure 4) , a first layer 10 for wicking moisture, a second layer 30, 20, 40 50, etc. for entrapping the wicked moisture. In view of the teachings of Aceves and Baychar , it would have been obvious to one ordinary skill in the art at the time the invention was made to provide the waterproof cast protector of Agati et al with an absorbent medium having a first wicking layer and a second entrapping moisture layer in order to wick moisture away from a wearer skin and to absorb the moisture.

Claims 16- 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agati et al ( Des.406,897) in view of Aceves ( 6,126,621) and Baychar ( 6,981,341), and further in view of Baxter ( 4,178,924).

Baxter teaches a cast protector with a gel moisture absorbing layer 28, 32, 34. In view of the teachings of Aceves and Baychar , it would have been obvious to one ordinary skill in the art at the time the invention was made to provide the waterproof cast protector of Agati et al with gel absorbent medium in order to provide the desired degree of moisture absorbing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huong Q. Pham whose telephone number is (571) 272-4980. The examiner can normally be reached on 8:45 AM - 5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on ( 571) 272 - 4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 2, 2007



**MICHAEL A. BROWN**  
**PRIMARY EXAMINER**